

IC 13-20.5-2

Chapter 2. Manufacturer's Registration Fee; Electronic Waste Fund

IC 13-20.5-2-1

Registration fee; variable recycling fee and formula for determination; recycling credits; fee exception

Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars (\$5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars (\$2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

- (1) The amount of the fee determined under subsection (d).
- (2) The method of calculation of the fee.
- (3) The due date of the fee.
- (4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of

recycling established as follows:

(A) Forty cents (\$0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents (\$0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents (\$0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.

(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

As added by P.L.178-2009, SEC.27.

IC 13-20.5-2-2

Petition for relief from variable recycling fee

Sec. 2. Not later than sixty (60) days after the date of the statement provided to a manufacturer under section 1(c) of this chapter, the manufacturer may petition the Indiana recycling market development board created by IC 4-23-5.5-2 for relief from the variable recycling fee imposed under section 1 of this chapter upon showing of good cause. In determining whether to grant a petition for relief under this section, the Indiana recycling market development board shall determine whether the manufacturer has made good faith progress to achieve substantial compliance with this article. A determination by the Indiana recycling market development board under this subsection is not subject to appeal by the manufacturer.

As added by P.L.178-2009, SEC.27.

IC 13-20.5-2-3

Electronic waste fund; administration; refunds to manufacturers

Sec. 3. (a) The electronic waste fund is established to implement this article. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Beginning in 2011 and continuing each year thereafter, as of the last day of the state fiscal year, the department shall determine the total amount of the variable recycling fees that were collected for that state fiscal year under section 1(c) of this chapter.

(f) Except as provided in subsection (g), if the total amount of registration fees collected by the department for a state fiscal year under section 1(a) of this chapter exceeds the amount the department determines necessary to administer this article for the next state fiscal year, the department shall refund on a pro rata basis, to all manufacturers that paid any fees for the state fiscal year that contributed to those collections, the amount of fees collected by the department that exceeds the amount necessary to administer this article for the next state fiscal year.

(g) The department is not required to refund amounts under subsection (f) if either or both of the following apply:

(1) The refund amount determined under subsection (f) is less than one hundred dollars (\$100).

(2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year was less than fifty percent (50%) of the amount the manufacturer was required to recycle for that program year under IC 13-20.5-4-1.

As added by P.L.178-2009, SEC.27.